

ESTTA Tracking number: **ESTTA380704**

Filing date: **11/28/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Sovereign Brands, LLC		
Entity	Limited Liability Co	Citizenship	Delaware
Address	81 Greene Street New York, NY 10012 UNITED STATES		

Attorney information	Gallit Schuller Schuller Law PLLC 140 Riverside Drive Suite 32B New York, NY 10024 UNITED STATES gallit@schullerlegal.net Phone:2127243290
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### Registration Subject to Cancellation

Registration No	3352535	Registration date	12/11/2007
International Registration No.	NONE	International Registration Date	NONE
Registrant	COMPAGNIE GERVAIS DANONE 17, boulevard Haussmann F-75009 PARIS  FRANCE		

### Goods/Services Subject to Cancellation

Class 032. Cancelled goods and services in the class: Beers
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	SkeletonCancellation2.pdf ( 3 pages )(4818845 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/gs/
Name	Gallit Schuller

Date	11/28/2010
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter Of Trademark Registration No. 3,352,535  
Date of Registration: December 11, 2007  
Mark: SKELETONS

SOVEREIGN BRANDS, L.L.C.,

Petitioner,

*-against-*

COMPAGNIE GERVAIS DANONE

Registrant.

Cancellation No. \_\_\_\_\_

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**PETITION FOR CANCELLATION**

Petitioner Sovereign Brands, L.L.C. ("Petitioner") believes that it is and will be damaged by the continued registration of Registration No. 3,352,535, and hereby petitions to cancel such registration. As grounds for its Petition for Cancellation, Petitioner alleges that:

1. Petitioner is a Delaware limited liability company having its principal place of business at 81 Greene Street New York, New York 10002.
2. Petitioner owns the following trademark application currently pending in the United States Patent and Trademark Office ("PTO"):

Mark	Goods	Filing Date & Serial Number
SKELETON	Wine	December 28, 2009 77/901,683

Petitioner's pending application is referred to herein as the "Application" and "Petitioner's SKELETON Mark." A copy of the records for the Application obtained from the PTO's website is attached hereto.

3. Petitioner filed the Application under Section 1(b) on December 28, 2009.
4. On October 8, 2010, the PTO issued a Final Office Action refusing the Application and citing U.S. Registration No. 3,352,535 for the mark SKELETONS based on a likelihood of confusion with Petitioner's SKELETON Mark. Consequently, Petitioner believes that the continued existence of Registration No. 3,352,535 will impair its rights in and to Petitioner's SKELETON Mark.
5. Upon information and belief, Compagnie Gervais Danone (hereinafter, "Registrant") obtained U.S. Registration No. 3,352,535 for the mark SKELETONS for "beers," among numerous other goods and services, under Section 66(a) on December 11, 2007.
6. Upon information and belief, Registrant has abandoned U.S. Registration No. 3,352,535 with respect to "beers" by failing to use of the SKELETONS in United States commerce three (3) consecutive years in connection with "beers."
7. Upon information belief, as of the filing date of this Petition to Cancel, Registrant still has not commenced use of the SKELETONS in connection with "beers" in United States Commerce.

**Count I:**  
**ABANDONMENT THROUGH NON-USE OF THE MARK**

8. Petitioner repeats and realleges Paragraphs 1-7 as though fully stated herein.
9. Upon information and belief, Registrant has never used the SKELETONS mark in connection with "beers" in United States commerce.
10. Upon information and belief, Registrant has abandoned all rights it may have to the SKELETONS mark and to Registration No. 3,352,535 by not using the SKELETONS mark in the United States in connection with "beers" as listed in the Registration.

11. Registrant's nonuse of the SKELETONS mark in connection with "beers" in United States commerce for three half consecutive years since the Registration issued on December 11, 2007, is *prima facie* evidence of abandonment of the Registration.

12. Registrant's nonuse the SKELETONS mark in connection with "beers" in United States commerce for three consecutive years since the Registration issued on December 11, 2007, is grounds for cancellation of the Registration under § 14 of the Lanham Act, 15 U.S.C. § 1064.

14. Since Registrant has never used the SKELETONS mark in connection with "beers" in United States commerce, the registered SKELETONS mark has no capacity as a source indicator of Registrant's "beers."

WHEREFORE, Petitioner, Sovereign Brands, L.L.C., believes and alleges that it is and will be damaged by the continued registration of the SKELETONS mark for "beers," and therefore prays that:

- a) the Petition for Cancellation herein be granted in favor of Petitioner; and
- b) Registration No. 3,352,535 be cancelled for "beers" in International Class 032.

Sovereign Brands, L.L.C hereby appoints Gallit Schuller, as its representative upon whom notices and process in proceedings affecting this proceeding maybe served.

Respectfully submitted,

Sovereign Brands, L.L.C.

By: \_\_\_\_\_

  
Gallit Schuller